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9 **BEFORE THE**  
**CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

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12 HEARING IN THE MATTER OF  
13 CALIFORNIA DEPARTMENT OF WATER  
RESOURCES AND UNITED STATES  
14 BUREAU OF RECLAMATION REQUEST  
FOR A CHANGE IN POINT OF DIVERSION  
15 FOR CALIFORNIA WATERFIX

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**PROTESTANT RESTORE THE DELTA'S  
JOINDER IN SAN JOAQUIN COUNTY ET  
AL'S OPPOSITION TO DWR'S  
OBJECTIONS TO, AND MOTION TO  
STRIKE, THE PART 2 TESTIMONY OF  
MARC DEL PIERO, CSPA-208-  
CORRECTED AND RELATED ORAL  
TESTIMONY**

1 Restore the Delta (“RTD”) joins in the Opposition of Protestants San Joaquin County, San  
2 Joaquin County Flood Control and Water Conservation District, Mokelumne River Water and Power  
3 Authority, Local Agencies of the North Delta, California Sportfishing Protection Alliance, California  
4 Water Impact Network, and AquAlliance (“San Joaquin County *et al.*”) to the California Department  
5 of Water Resources’ (“DWR”) Objection to and Motion to Strike Marc Del Piero’s CSPA-208-  
6 Corrected written testimony and his related oral testimony presented in the California WaterFix  
7 Change Petition hearing on April 25, 2018.

8 We agree with San Joaquin County *et al.* that DWR improperly relies on the State Water  
9 Resources Control Board’s (“SWRCB”) April 13, 2017 Ruling concerning water availability  
10 analysis (“WAA”) because that Ruling was limited to the Part 1 rebuttal phase of this hearing. We  
11 also note that the paragraph in the Ruling that DWR cites in support of its motion falls under the  
12 header “Inadmissible Rebuttal Testimony” and is therefore not controlling here. (*See Hearing*  
13 *Officers’ Ruling, April 13, 2017, p. 1.*)

14 In addition, we agree with San Joaquin County *et al.* that WAA is essential to the SWRCB’s  
15 fulfillment of its public trust duties and the legislated mandate to produce appropriate Delta flow  
16 criteria. We further contend that Article X, Section 2 of the California Constitution requires the  
17 SWRCB to assure reasonable use of water as it establishes the facts of this Petition case. Under this  
18 constitutional requirement, the SWRCB must assure reasonable use of water by determining water  
19 available for reasonable use and by determining whether the proposed Petition Facilities are a  
20 reasonable method of diversion. WAA is essential to these determinations and the SWRCB’s  
21 fulfillment of its constitutional duty under Article X, Section 2.

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Respectfully submitted,



Dated: April 30, 2018

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